United Nations A/59/574–S/2004/909

General Assembly
Security Council

Distr.: General
18 November 2004

Original: English

General Assembly
Fifty-ninth session
Agenda items 36 and 37

The situation in the Middle East

Question of Palestine

Security Council
Fifty-ninth year

Peaceful settlement of the question of Palestine

Report of the Secretary-General*

Summary

The present report is submitted in accordance with General Assembly resolution 58/21. It contains replies received from the President of the Security Council and the parties concerned to the notes verbales sent by the Secretary-General pursuant to the request contained in paragraph 11 of that resolution. The report also contains the observations of the Secretary-General on the current state of the Israeli-Palestinian conflict and on international efforts to revive the peace process with a view to achieving a peaceful solution. The report covers the period from mid-September 2003 to mid-September 2004.

* The report was submitted after the established deadline in order to include as much updated information as possible.

04-61664 (E) 261104

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 58/21 of 3 December 2003.

2. On 13 April 2004, pursuant to the request contained in paragraph 11 of that resolution, I addressed a letter to the President of the Security Council reading as follows:

> "I have the honour to refer to resolution 58/21, which the General Assembly adopted on 3 December 2003, at its fifty-eighth session, under the agenda item 'Question of Palestine'.
>
> "Paragraph 11 of the resolution requests the Secretary-General to continue his efforts with the parties concerned, and in consultation with the Security Council, towards the attainment of a peaceful settlement of the question of Palestine and the promotion of peace in the region and to submit a report on these efforts and on developments on this matter.
>
> "In order to fulfil my reporting responsibilities under this resolution, I should be grateful if you would kindly convey to me the views of the Security Council by 31 May 2004."

3. On 19 May 2004 a reply was received from the Security Council reading as follows:

> "The situation in the Middle East including the Palestinian question remains one of the most important items on the Security Council agenda. The Security Council continues to discuss and receive monthly briefings under this item from the Secretary-General, the Special Coordinator for the Middle East Peace Process, Terje-Roed Larsen, or senior Secretariat staff.
>
> "In June 2003, the Council reacted positively to the issuance of the performance-based road map to a permanent two-State solution to the Israeli-Palestinian conflict. In November 2003, the Council strengthened its support for the road map by unanimously adopting resolution 1515 (2003). The resolution, inter alia, endorsed the road map and called on the parties to fulfil their obligations under the road map in cooperation with the Quartet and to achieve the vision of two States living side by side in peace and security. The Council continues to follow the status of the implementation of the road map with a view to promoting a comprehensive, just and lasting peace in the Middle East.
>
> "During the reporting period, the Security Council held five open meetings in response to various security challenges that surfaced, from time to time, in the region. Following the open meeting held on 12 September 2003, at the request of the Non-Aligned Movement Caucus and the Arab Group, the Council presidency, in a press statement, expressed the view that the removal of Chairman Arafat should not be implemented. The presidency also condemned all violence and urged both sides to act with maximum restraint.
>
> "The Council could not agree on three draft resolutions submitted for action on 16 September 2003, 14 October 2003 and 24 March 2004. The subjects of the draft resolutions were the safety of the President of the Palestinian Authority, continued construction of a barrier in the Palestinian

territories and the extrajudicial killing of Hamas leader Shaikh Yassin in Gaza, respectively.

"The Council continues to keep the evolving situation in the Middle East under active review through monthly briefings, open meetings and informal consultations. During these meetings, the Council members reiterate their support for a just and comprehensive settlement in the Middle East based on Security Council resolutions 242 (1967), 338 (1973), 1397 (2002) and 1515 (2003), the foundations of the Madrid Conference, the principle of land for peace, agreements previously reached by the parties and the initiative of Saudi Crown Prince Abdullah endorsed in Beirut at the Summit-level Council of the League of Arab States."

4. In notes verbales dated 12 April 2004 to the parties concerned, I sought the positions of the Governments of Egypt, Israel, Jordan, Lebanon and the Syrian Arab Republic, as well as the Palestine Liberation Organization, regarding any steps taken by them to implement the relevant provisions of the resolution. As at 17 September 2003, the following replies had been received:

Note verbale dated 2 July 2004 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General

"As the Secretary-General is aware, Israel voted against this resolution, as well as against similar resolutions adopted by the General Assembly at previous sessions. In the light of the urgent need to bring an end to all acts of violence and terrorism in the region and to further the agreed negotiating process, Israel wishes to put on record, once again, its position on this matter.

"Israel views the aforementioned General Assembly resolution not only as unbalanced, but also as an undue interference in matters which the parties have agreed to resolve within the context of direct bilateral negotiations.

"The violence in the region has been a result of a Palestinian decision to abandon peace negotiations and pursue their goals through violence and terrorism. The one-sided approach reflected in the resolution, which seeks to dictate the outcome of the negotiating process, effectively rewards violence at a time when the Palestinian side should discontinue all acts of violence and terrorism and boldly pursue the path of peaceful dialogue, as called for in the road map peace process, which compels the Palestinian Authority to prevent 'all acts of violence against Israelis anywhere'.

"The time to put an end to such biased United Nations resolutions is long overdue, requiring immediate and serious consideration by the Secretary-General. These one-sided resolutions are not only out of touch with reality and anachronistic, they are counterproductive to the very spirit of peace. Rather than promoting a vision which recognizes the rights and obligations of both sides, as articulated in the road map, these resolutions obscure the efforts of the parties to achieve a negotiated outcome, at a moment when Prime Minister Sharon's courageous disengagement plan has opened a critical window of opportunity in the peace process."

Note verbale dated 16 August 2004 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General

"The General Assembly's resolution on the peaceful settlement of the question of Palestine has traditionally reaffirmed rules and principles of international law that are central, and in fact deemed to be essential, to the peaceful and just resolution of the long-standing question of Palestine. The overwhelming support received by this resolution is reflective of the near consensus of the international community with regard to this issue, a consensus rooted in positions and convictions that are based on the primacy of international law in international relations and on the universal ideals of justice and peace. During the fifty-eighth session of the General Assembly, Member States once again adopted this resolution by a huge majority of 160 votes in favour, with only 6 votes against and 5 abstentions.

"Among the rules and principles of international law the Assembly reaffirms in resolution 58/21 are two fundamental ones, namely the principle of equal rights and self-determination of peoples and the principle of the inadmissibility of the acquisition of territory by war, as enshrined in the Charter of the United Nations. Other rules recalled in the resolution are embodied in relevant General Assembly resolutions, including those adopted by its tenth emergency special session, and Security Council resolutions, including resolutions 242 (1967), 338 (1973), 1397 (2002) and 1515 (2003). Accordingly, as it reaffirms the necessity of achieving a peaceful settlement of the question of Palestine, the core of the Arab-Israeli conflict, in all its aspects and of intensifying efforts towards that end, the Assembly, inter alia, stresses the need for the withdrawal of Israel from the Palestinian territory occupied since 1967 and the need for the realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State. The resolution also stresses the need for resolving the problem of the Palestine refugees in conformity with the Assembly's resolution 194 (III) of 11 December 1948.

"As regards the efforts for achieving a peaceful settlement of the question of Palestine, the Assembly significantly reaffirms the permanent responsibility of the United Nations with regard to the question of Palestine until it is resolved in all its aspects, reaffirms also its full support for the Middle East peace process and the existing agreements between the Israeli and Palestinian sides, welcomes the efforts of the Quartet aimed at the establishment of a comprehensive, just and lasting peace in the Middle East, welcomes the Arab Peace Initiative adopted by the League of Arab States at Beirut in March 2002 and calls upon both parties to fulfil their obligations in implementation of the road map, stressing in this regard the importance and urgency of establishing a credible and effective third-party monitoring mechanism including all members of the Quartet. Further, towards the aim of achieving a peaceful settlement, the Assembly, in resolution 58/21, rightly stresses the necessity of a commitment to the two-State solution and the principle of land for peace, as well as the implementation of the relevant Security Council resolutions, and also stresses the need for a speedy end to the *reoccupation of Palestinian* population centres and for the complete cessation

of all acts of violence, including military attacks, destruction and acts of terror, which in recent years have caused the grave deterioration of the situation on the ground and have severely debilitated the search for a peaceful resolution of the question of Palestine.

"The resolution also addresses another aspect of the question of Palestine that constitutes an extremely relevant consideration for any efforts aimed at resolving this tragic and protracted conflict, namely the humanitarian aspect. The Assembly expresses its grave concern over the tragic events in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000, including the rising number of deaths and injuries, mostly among Palestinian civilians, the deepening humanitarian crisis facing the Palestinian people and the widespread destruction of Palestinian property and infrastructure, both private and public, including many institutions of the Palestinian Authority. In this regard, the Assembly emphasizes the importance of the safety and well-being of all civilians in the whole Middle East region and condemns all acts of violence and terror against civilians on both sides, including the suicide bombings and extrajudicial executions. Further, with regard to the dire humanitarian crisis being inflicted on the Palestinian people, the Assembly urges Member States to expedite the provision of economic, humanitarian and technical assistance to the Palestinian people and Palestinian Authority during this critical period to help alleviate their suffering, rebuild the Palestinian economy and infrastructure and support the restructuring and reform of Palestinian institutions.

"In calling for efforts to be exerted for the peaceful settlement of the question of Palestine, the Assembly is fully aware of the urgent need for revitalized and active international involvement to support both parties in overcoming the current dangerous impasse in the peace process. The Assembly affirms the urgent need for the parties to cooperate with all international efforts and accordingly calls upon the parties concerned, the Quartet and other interested parties to exert all efforts and initiatives necessary to halt the deterioration of the situation and to reverse all measures taken on the ground since 28 September 2000 and to ensure a successful and speedy resumption of the peace process and the conclusion of a final peace settlement. The role of the United Nations is further spelled out in resolution 58/21, with the Assembly's request for the Secretary-General to continue his efforts with the parties concerned, and in consultation with the Security Council, towards the attainment of a peaceful settlement of the question of Palestine and the promotion of peace in the region, and its call upon the Secretary-General to submit a report on the efforts and developments on this matter, the purpose to which the present note is addressed.

"Regrettably, resolution 58/21 of 3 December 2003, like countless other United Nations resolutions relevant to the question of Palestine, has not been implemented. This has been mainly due to the intransigence of Israel, the occupying Power, and its refusal to adhere to international law and to fulfil its obligations in accordance with the Charter of the United Nations and relevant General Assembly and Security Council resolutions. Instead, Israel, the occupying Power, has continued to blatantly and flagrantly violate and even commit grave breaches of international law as it has persisted with its now 37-year occupation of the Palestinian people and the Palestinian land, refusing

to withdraw its occupying forces, in compliance with Security Council resolutions 242 (1967) and 338 (1973), and relentlessly carrying out its illegal and oppressive policies and practices in the Occupied Palestinian Territory, including East Jerusalem. Indeed, not a single day has passed during which the occupying Power has not deliberately engaged in the violation of international law, including international humanitarian law and human rights law, in its practices and measures against the Palestinian people, both individually and collectively, and there is no doubt that systematic human rights violations and war crimes continue to be committed by Israel against the Palestinian people.

"Since the Assembly's adoption of resolution 58/21, Israel, the occupying Power, has continued carrying out its military campaign against the Palestinian people and has continued to use excessive, indiscriminate and disproportionate force against Palestinian civilians, wilfully killing civilians, including by extrajudicial execution, and causing thousands of injuries. To date, more than 3,160 Palestinian civilians have been directly killed by the Israeli occupying forces since September 2000 and more than 40,000 Palestinians have been injured, many critically and permanently disabled. At the same time, the occupying Power has continued to wantonly destroy Palestinian homes, properties, infrastructure and agricultural lands and orchards, to detain and imprison thousands of Palestinian civilians, including women and children, and to impose harsh measures of collective punishment on the entire Palestinian population, including severe restrictions on the movement of persons and goods throughout the Occupied Palestinian Territory, causing the further socio-economic debilitation of the Palestinian society and exacerbating the already dire humanitarian crisis.

"Throughout the recent period, Israel, the occupying Power, has also continued to intensively carry out its campaign of settler colonialism in the Occupied Palestinian Territory, including East Jerusalem, in direct contravention of international law, particularly the Fourth Geneva Convention and Protocol I Additional to the Geneva Conventions. The occupying Power has continued to confiscate more and more Palestinian land, to construct and expand illegal settlements, to build bypass roads for the armed illegal Israeli settlers and to allow the establishment of dozens of settler outposts on Palestinian land. Directly linked to Israel's campaign of settler colonialism is its ongoing construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, in contravention of international law.

"In utter contempt of and disrespect for resolutions ES-10/13 of 21 October 2003 and ES-10/14 of 8 December 2003, and in violation of numerous relevant provisions of international law, Israel has continued to construct the wall and for this unlawful purpose has continued to confiscate land, to destroy property and to impose a series of illegal restrictions, including by means of a 'permit system', constituting an entire associated regime of measures intended to facilitate its construction of the wall. The wall and its associated regime have resulted in the complete caging-in of thousands of Palestinian civilians in walled enclaves or ghettos and the separation and isolation of cities, towns and villages from each other and in some cases from within; have caused the displacement of thousands of Palestinian civilians; have severely impaired the access of the hundreds of thousands of Palestinian civilians in affected areas to their jobs, schools, medical facilities, farmlands

and each other; and have led to extensive loss of livelihood and the impoverishment of thousands of families, compounding their suffering and hardships under Israel's occupation.

"In the months since the adoption of resolution 58/21, the critical issue of the wall has been the predominant concern of the international community vis-à-vis the situation in the Occupied Palestinian Territory, including East Jerusalem. In the most significant development in the United Nations system with regard to the question of Palestine since the adoption of the partition plan in resolution 181 (II) of 29 November 1947, the International Court of Justice rendered, on 9 July 2004, an Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. The Advisory Opinion, rendered pursuant to the request made by the Assembly at its tenth emergency special session in resolution ES-10/14 of 8 December 2003, is strong and comprehensive and represents a historic opportunity for a return to the rule of international law in the efforts to resolve the Israeli-Palestinian conflict. Indeed, the Advisory Opinion underscores the applicability of, and the need for respect for, the rules and principles of international law for resolving the issue of the wall and for the ultimate peaceful resolution of the question of Palestine. The legal rules and principles emphasized by the Court correspond to the very same rules and principles repeatedly affirmed by the General Assembly in its resolutions relevant to the question of Palestine, which for decades have been disregarded and violated by Israel, the occupying Power.

"The International Court of Justice, in its Advisory Opinion, concluded, inter alia, that 'the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law'. In arriving at this determination, the Court undertook a historical analysis of the status of the Occupied Palestinian Territory, followed by an analysis to establish whether the law had been breached and then a determination of the legal consequences in this regard. The Court found that the area east of the 1949 Armistice Line (the 'Green Line') and the former eastern boundary of Palestine under the Mandate, including East Jerusalem, was occupied by Israel in 1967 and, under international law, considered to be occupied territory. Here it is necessary to also recall the important adoption by the General Assembly, on 6 May 2004, of resolution 58/292 on the status of the Occupied Palestinian Territory, including East Jerusalem.

"In brief, with regard to the specific violations of international law, including international humanitarian law and human rights law, the Court concluded, inter alia, that Israel's construction of the wall and its associated regime create a fait accompli on the ground which would be tantamount to de facto annexation, severely impede the exercise by the Palestinian people of its right to self-determination and therefore violate that right; have led to the destruction or requisition of properties in contravention of relevant provisions of the Hague Regulations and the Fourth Geneva Convention; and violate the Palestinian people's freedom of movement and the right to work, to health, to education and to an adequate standard of living. In examining the route of the wall, the Court found that not only did it depart from the Green Line, but that the 'wall's sinuous route has been traced in such a way as to include within

that area the great majority of Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem)'. In this regard, it is significant that the Court also explicitly concluded that 'the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law'.

"It is equally imperative to refer in this context to the importance of the conclusions set forth by the Court in the Advisory Opinion. Following its determination that the construction of the wall and its associated regime are contrary to international law, the Court determined the following: that Israel is under an obligation to terminate its breaches of international law, to cease the construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle the structure therein situated, and to repeal or render ineffective all legislative and regulatory acts relating thereto; that Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem; that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; that all States parties to the Fourth Geneva Convention have an additional obligation of ensuring compliance by Israel with the Convention; and that the United Nations, especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the Advisory Opinion.

"With regard to the United Nations, the General Assembly, at its tenth emergency special session, has already taken the first step in this respect. The Assembly received and acknowledged the Advisory Opinion and adopted resolution ES-10/15 of 20 July 2004, in which it, inter alia, demanded that Israel, the occupying Power, comply with its legal obligations as mentioned in the Advisory Opinion and also called upon all States Members of the United Nations to comply with their legal obligations as mentioned in the Advisory Opinion. Indeed, respect for and compliance with the rules and principles of international law, as determined in the Advisory Opinion, by Israel, the occupying Power, and by Member States, can only positively influence the current situation on the ground in the Occupied Palestinian Territory and the efforts for achieving a peaceful, political settlement of the conflict based on international law.

"It is highly regrettable that the immediate reaction by Israel, the occupying Power, to both the Advisory Opinion and resolution ES-10/15, has been negative and defiant, with Israeli officials declaring Israel's intention to continue its construction of the wall and with the occupying forces in fact carrying out that construction as well as the associated illegal measures. Clearly, the continuing violation of international law and total disrespect for the Advisory Opinion and the Assembly's resolutions must continue to be a matter of serious concern for the United Nations. The direct and grave impact of this ongoing illegal situation on the efforts to achieve a peaceful settlement of the Israeli-Palestinian conflict is unquestionable and must be urgently addressed by both the General Assembly and the Security Council. Israel, the

occupying Power, has a choice: it can choose either to comply with the Advisory Opinion or to formally become an outlaw State.

"Israel's withdrawal from the Palestinian territory occupied since 1967, as called for by resolution 58/21 as well as by Security Council resolutions 242 (1967) and 338 (1973) and numerous other resolutions, is a fundamental requisite for solving the question of Palestine and achieving a peaceful settlement of the Israeli-Palestinian conflict, based on the two-State solution. The occupying Power's settler colonialism and its construction of the wall in the Occupied Palestinian Territory, including East Jerusalem, are the antithesis of withdrawal and actually constitute the main obstacle, and indeed danger, to the realization of the national rights of the Palestinian people and the achievement of the two-State solution. Without the complete cessation and reversal of all settlement activities and of the construction of the wall, there can be no hope for the road map and there can be no hope for a peaceful settlement. The international community must face this reality and take necessary, serious measures in this regard, including the exertion of all efforts for the full implementation of those resolution as well as full compliance with the Advisory Opinion of the International Court of Justice. Only by upholding international law and the purposes and principles of the Charter can efforts aimed at the achievement of a just, comprehensive and lasting peace succeed. All concerned parties should intensify their efforts towards this end.

"In this regard, it is hoped that the international community and the Quartet will exert the necessary efforts as well to salvage the road map and to implement its provisions towards its stated aims and goals. Accordingly, repeated Israeli attempts to evade the road map and replace it with different steps should be rejected. The Israeli Prime Minister's 'unilateral disengagement plan' and the Israeli-American exchange of letters of 14 April 2004 are inconsistent with the road map and, moreover, the plan, and several passages within the letters violate international law, relevant Security Council resolutions and the inalienable rights of the Palestinian people, including the Palestine refugees. In this regard, it must be firmly stated that the letters are unacceptable and cannot alter the terms of reference of the peace process or alter the inalienable rights of the Palestinian people. Further, any Israeli withdrawal from the Gaza Strip should be a full and complete withdrawal and should be accompanied by similar steps in the West Bank — that is, to genuinely be a part of the road map. Any such withdrawal should also be carried out in full cooperation with the Palestinian Authority.

"Palestine looks forward to the resumption of meaningful negotiations for a final peaceful settlement and the establishment of a just, comprehensive and lasting peace in the Middle East, including full peaceful relations between Israel and Palestine. Until the achievement of such a peaceful settlement, Palestine hopes for and indeed expects the continued support of the international community and the continued exertion of genuine efforts towards this end, including in particular by the United Nations."

Note verbale dated 10 May 2004 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

[Original: Arabic]

"The Syrian Arab Republic supported General Assembly resolution 58/21 of 3 December 2003, entitled 'Peaceful settlement of the question of Palestine'. This position was based on its belief that the attainment of a comprehensive and lasting peace in the Middle East based on decisions of international legitimacy, especially Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, will not be feasible until a peaceful, comprehensive and just settlement of the question of Palestine, the core of the Arab-Israeli conflict, has been achieved. On this basis, the Arab countries unanimously agreed the Arab Peace Initiative adopted by the Summit-level Council of the League of Arab States at its fourteenth session, held in Beirut on 27 and 28 March 2002. In the meantime, the Syrian Arab Republic reiterated its strategic position, based on achieving a comprehensive and just peace, through the call by the President of the Syrian Arab Republic for the resumption of peace talks in order to continue what was achieved during the peace negotiations that followed the Madrid Conference in 1991.

"The Syrian Arab Republic wishes to affirm anew the contents of General Assembly resolution 58/21 (2003) of 3 December 2003 concerning the illegality of the Israeli settlements in the territory occupied since 1967. The Syrian Arab Republic also wishes to stress that the ongoing presence of these settlements constitutes a fundamental obstacle to the reaching of a peaceful settlement of the question of Palestine and indicates that the successive Israeli Administrations have lacked the necessary political will to reach a just and comprehensive peace in the region based on decisions of international legitimacy. It has become apparent to all that the plans proposed by Ariel Sharon, the Prime Minister of the State of Israel, are designed to revoke the right of refugees to return to their homes on the basis of General Assembly resolution 194 (III) of 11 December 1948.

"The Syrian Arab Republic unequivocally supports the affirmation contained in this resolution concerning the principle of the inadmissibility of the acquisition of territory by war, which is based on Security Council resolution 242 (1967) of 22 November 1967. It also reaffirms the illegality of Israeli actions aimed at changing the status of Jerusalem.

"Israel's determination to continue its expansionist project inside Palestinian territory, especially as it continues to construct the separation wall in implementation of its policy of fait accompli, and its non-compliance with General Assembly resolution ES-10/13 of 21 October 2003, which demanded that Israel stop the construction of this wall, are blatant examples of Israel's illegitimate actions in violation of the Armistice Line of 1949 and its denial of the principle of equal and inalienable rights and self-determination of peoples, all of which constitutes a further obstacle to achieving the desired peace.

"The Syrian Arab Republic condemns Israel's continued illegal occupation of Arab territories, acts of aggression, incursions into Palestinian

areas, house demolition, confiscation of land, detentions, policy of assassination of Palestinian leaders, all of which has escalated recently, and the expulsion of Palestinians from their houses, cities and villages. These Israeli policies reflect the State terrorism that Israel practises, its real intention of continuing the occupation and its disregard for decisions of international legitimacy. These Israeli policies are incompatible with the desire of the international community to reach a settlement of the Palestine question in accordance with the relevant Security Council resolutions, in particular Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, which affirmed the necessity of Israel's withdrawal from all occupied Arab territories and of enabling the Palestinian people to exercise its right to self-determination and to establish its own independent State on its national soil."

II. Observations

5. I regret to report that despite the efforts of the international community through the Quartet (the United Nations, the European Union, the Russian Federation and the United States of America), and the stated commitment of the parties to the road map initiative expressed at the summit meeting at Aqaba, Jordan, on 4 June 2003, the situation in the Middle East is characterized by a stalled peace process and continuing high levels of violence. Throughout the past year, both Palestinians and Israelis have suffered from violence and ever-mounting death tolls. The humanitarian situation in the occupied Palestinian territory continued to deteriorate sharply, with even a minimum standard of living for many Palestinians being sustained only by assistance from the donor community, particularly by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and other United Nations agencies and programmes.

6. The rising number of deaths and injuries is evidence of the lack of progress in advancing the peace process over the last year. As at 16 September 2004, 825 Palestinians and 136 Israelis had lost their lives in the conflict in the preceding year. In the four years that have passed since the eruption of the violence in September 2000, no fewer than 3,633 Palestinians and 966 Israelis have been killed. This ever-mounting human tragedy reiterates the urgent need for the parties to implement their road map obligations and for getting the peace process back on track.

7. Neither side has taken adequate steps to protect civilians, and both are in breach of their international legal obligations. Israel, as the occupying Power, has clear obligations to protect Palestinian civilians and their property. Nevertheless, Palestinian civilians continue to be killed and injured in Israeli military operations, including incursions and pre-emptive strikes. In addition, Israel has continued the illegal practice of extrajudicial killings. The scale of destruction of Palestinian property by the Israeli military raises serious concerns about collective punishment. For its part, the Palestinian Authority has obligations under agreements reached with Israel, international humanitarian law and its commitments to the road map to protect Israeli civilians from attacks emanating from territories in its control. It has failed to live up to those obligations, and Israeli civilians continue to suffer terrorist attacks from Palestinian militant groups, including suicide bombings and Qassam rocket strikes. For each side to cite the actions of the other excuses neither from

fulfilling its own obligations. There can be no preconditions for the observance of humanitarian law and international agreements.

8. More broadly, the parties have not lived up to their road map obligation. The Israeli Government has made no progress on its core obligation immediately to dismantle settlement outposts erected since March 2001 and to freeze settlement activities, including natural growth. The Palestinian Authority has made no progress on its core obligations to take immediate action on the ground to end violence and combat terror. Until and unless both the Palestinian Authority and the Government of Israel take the necessary first steps to restore momentum towards peace, the stalemate will continue and there will be no lasting ceasefire. Those first steps are clear: on the Israeli side, the dismantling of settlement outposts and the implementation of a full freeze of all settlement activities, and on the Palestinian side, the implementation of meaningful security reforms and bringing to an end the use of violence in all its forms.

9. Israel has failed to implement its core commitments under the road map. Settlement expansion and lack of action on removing the outposts erected since 2001 severely undermine Palestinian trust in Israel's intentions and contribute to strengthening extremist opinion among Palestinians. Despite repeated promises by the Israeli Government, settlement activities continue. According to figures of the Israeli Ministry of the Interior, the settler population continues to increase. Settlement construction is reported to have continued at a considerable pace, in particular in large settlement blocs. In and around East Jerusalem, recent settlement activity, both governmental and privately sponsored, has proceeded at a rate that observers describe as unmatched since 1992. Government-sponsored settlement activity has serious effects on the territorial contiguity of the Palestinian territory. Thus, reports that the Israeli Government had approved plans for the construction of 600 new accommodation units in Maale Adumim, already the largest Israeli settlement, and the release of tenders for the construction of more than 1,000 new housing units in West Bank settlements were of special concern.

10. Throughout the reporting period, Israel persisted in its efforts to confine the elected President of the Palestinian Authority, Mr. Arafat, to his headquarters in the West Bank.

11. The security measures taken by the Palestinian Authority are still limited and unclear. Over the last 12 months, we have been consistently calling on the Palestinian Authority to take decisive action to reform, refocus and rehabilitate the Palestinian security services. Decisive action in this regard would help to restore law and order as well as the Palestinian Authority's diminished credibility. The required elements of reform are clear to all: the consolidation of all security services into three main bodies, with a professional leadership, and putting them under the authority of an effective Interior Minister who reports to an empowered Prime Minister.

12. Another crucial area is elections. On 4 September 2004, voter registration began under the auspices of the Central Elections Commission, as the international community had persistently demanded over the past year. At the same time, it is most regrettable that the Israeli authorities closed three registration centres and detained five Palestinian staff of the Commission on 13 September 2004. Such action represents an unacceptable interference with the registration process in East Jerusalem, and we call on Israel to facilitate, rather than hinder, this important

process. In addition, much work remains to be done by the Palestinian Authority to ensure that the local elections, scheduled to begin on 9 December 2004 and last for one year, meet minimum international standards. Even more important, national elections have to follow soon.

13. Over the past year, the situation in the Middle East, including the Palestinian question, remained the subject of extensive consultations and debates in the Security Council. The Secretariat continued to provide regular informal briefings to the Council on the latest developments in the Middle East. Over the course of this year, the Security Council adopted two resolutions regarding the Middle East. On 19 November 2003, the Council adopted resolution 1515 (2003), endorsing the road map and calling on the parties to fulfil their road map obligations. On 19 May 2004, the Security Council adopted resolution 1544 (2004), calling on Israel to respect its obligations under international humanitarian law, including its obligation not to destroy Palestinian homes in a manner contrary to the law.

14. Israel continued construction of the barrier in parts of the West Bank during the year. The General Assembly adopted resolution ES-10/13 on 21 October 2003, demanding that Israel immediately stop and reverse construction of the wall being built in parts of the West Bank. The resolution requested that I submit reports periodically to the Assembly, with the first, on compliance with the resolution, due within a month. I submitted to the Assembly the report, ES-10/248, on 24 November 2003. On 8 December 2003, the General Assembly adopted resolution ES-10/14, requesting the International Court of Justice to urgently render an advisory opinion on the legal consequences of the wall. The Court heard arguments in public hearings in February 2004 and on 9 July rendered an advisory opinion declaring that the construction of the wall in the occupied Palestinian territory, including in and around East Jerusalem, is contrary to international law; that Israel is obligated to terminate such breaches and make reparation for all damage caused by the construction of the wall; and that the Assembly and Security Council might wish to consider further action to bring an end to the illegal situation. The Assembly, on 20 July 2004, adopted resolution ES-10/15, demanding that Israel comply with its legal obligations and requesting me to establish a register of damage caused by the construction of the wall.

15. During the reporting period, there has been a disturbing increase in acts of violence against and harassment of United Nations staff and property. United Nations staff are frequently hindered in carrying out their duties. Israel has a clear obligation to ensure the safety and security of United Nations staff and property. In addition, Israel should work to ensure that the movement of humanitarian goods is not unduly impeded by security concerns. Israel should also undertake efforts to facilitate the movement of United Nations staff through the Erez crossing, in accordance with the privileges and immunities accorded to all United Nations staff members.

16. In February 2004, Prime Minister Sharon announced an initiative to withdraw Israeli armed forces from Gaza and parts of the West Bank and to evacuate all settlements in the Gaza Strip, as well as four settlements in the northern West Bank. At its meeting on 4 May 2004, the Quartet welcomed this step and stated that for it to be effective and a real contribution to the peace process, the following requirements needed to be met: that the withdrawal be full and complete; that it lead to an end of the occupation of Gaza and be accompanied by similar steps in the West

Bank; that it take place within the framework of the road map and the vision of two States; and that it be fully coordinated with the Palestinian Authority and the Quartet. It is my hope that both the Israeli and the Palestinian sides will focus on the tasks at hand in order to make withdrawal and its aftermath a new beginning of the peace process. Egypt and Jordan can assist this process. Both countries have so far displayed welcome and commendable leadership.

17. The United Nations, and the international community at large, is ready to assist the parties in this endeavour, if they make the right choices. The Quartet remains in close consultations and meets regularly to assess the situation on the ground and examine appropriate courses of action. The main donor coordination body, known as the Ad Hoc Liaison Committee, is planning to meet later in the year to examine ways in which the donor community could assist the parties to turn this withdrawal into the beginning of a genuine peace process. But, yet again, this depends on the parties themselves, the Government of Israel and the Palestinian Authority, and the choices they make in this regard.

18. On the economic front, the picture remains grim. The Palestinian economy is in tatters and stands little chance of recovery unless immediate action is taken. Forty-seven percent of the Palestinian population currently lives in poverty. Unemployment among Palestinians stands at 34.3 per cent, or 28.6 per cent at the International Labour Organization-adjusted rate, which excludes discouraged workers. At present, UNRWA and the World Food Programme are providing regular food aid to as many as 1,480,000 beneficiaries — 39 per cent of the total Palestinian population in the occupied territory — and UNRWA is now supplying 10 times as much food as it was before September 2000.

19. A recent World Bank study found that the deep economic crisis in the West Bank and Gaza is one of the worst recessions in modern history. It is contributing to the impoverishment of an entire generation of young Palestinians, as well as to the undermining of the credibility of the Palestinian Authority, and, inevitably, it is increasing the popular appeal of militant factions. The primary cause of this crisis is the closure regime imposed by the Government of Israel. Without a significant change in the closure regime, the Palestinian economy will not be revived. Indeed, the World Bank has emphasized that Israel's disengagement plan will have limited impact on the Palestinian economy and Palestinian livelihoods if it is not accompanied by a radical easing of closure that encompasses three elements: the removal of internal obstacles to movement in the West Bank, the opening of Palestinian external borders to commodity trade and a return to a reasonable flow of Palestinian labour into Israel.

20. If these conditions are met, additional donor money can be raised. But donors need some assurance that their contributions will have a productive impact. Aid will be provided in the context of a successful comprehensive Israeli withdrawal from the Gaza Strip and the northern West Bank, as a first step in the implementation of the road map.

21. It is particularly disquieting that Israel has announced its intention to phase out completely Palestinian employment inside Israel by 2008. The number of Palestinians employed in Israel has decreased significantly since September 2000. The Palestinian economy is dependent on the Israeli economy, not only for employment but also for raw materials and trade. Although the parties may choose to change this relationship in the long term, a revival of the Palestinian economy in

the short term depends on a return to reasonable levels of Palestinian employment in Israel. Should Israel insist on ending Palestinian employment and implement the disengagement plan without accompanying measures to ease internal and external closure, unemployment and poverty will continue to soar among Palestinians.

22. I call upon the international community to provide the resources necessary to support United Nations programmes in addressing the deteriorating economic and humanitarian situation of the Palestinian people, and especially to provide adequate funding to UNRWA so that it can continue to deliver the necessary services to the Palestinian refugees. Donor assistance is especially vital at a time when the humanitarian situation is so critical.

23. So far this year UNRWA has received pledges covering less than one half of its financial requirements for its emergency appeal for refugees in the West Bank and Gaza Strip. Only $89 million of the almost $210 million needed has been pledged. With insufficient financial resources, the quality and level of the Agency's emergency humanitarian assistance will suffer, making the already miserable life of the Palestinian people even more difficult, with wider consequences.

24. Later this year, the Agency will be launching a five-year medium-term plan covering the approximately 2 million registered refugees throughout its area of operation. The additional funding needed for the plan will help create equity between refugees and non-refugees living side by side and enable the Agency to make up for years of under-funding.

25. I should like to pay special tribute to Terje Roed-Larsen, United Nations Special Coordinator for the Middle East Peace Process and my Personal Representative to the Palestine Liberation Organization and the Palestinian Authority, to the staff of the Office of the United Nations Special Coordinator and to Commissioner-General Peter Hansen of UNRWA, the staff of the Agency and all other United Nations agencies, who continue to provide sterling services while working under most demanding and difficult circumstances.

United Nations A/59/574*-S/2004/909*

General Assembly
Security Council

Distr.: General
29 November 2004

Original: English

General Assembly
Fifty-ninth session
Agenda items 36 and 37

The situation in the Middle East

Question of Palestine

Security Council
Fifty-ninth year

Peaceful settlement of the question of Palestine

Report of the Secretary-General**

Summary

The present report is submitted in accordance with General Assembly resolution 58/21. It contains replies received from the President of the Security Council and the parties concerned to the notes verbales sent by the Secretary-General pursuant to the request contained in paragraph 11 of that resolution. The report also contains the observations of the Secretary-General on the current state of the Israeli-Palestinian conflict and on international efforts to revive the peace process with a view to achieving a peaceful solution. The report covers the period from mid-September 2003 to mid-September 2004.

* Reissued for technical reasons.

** The report was submitted after the established deadline in order to include as much updated information as possible.

04-61664* (E) 291104

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 58/21 of 3 December 2003.

2. On 13 April 2004, pursuant to the request contained in paragraph 11 of that resolution, I addressed a letter to the President of the Security Council reading as follows:

> "I have the honour to refer to resolution 58/21, which the General Assembly adopted on 3 December 2003, at its fifty-eighth session, under the agenda item 'Question of Palestine'.
>
> "Paragraph 11 of the resolution requests the Secretary-General to continue his efforts with the parties concerned, and in consultation with the Security Council, towards the attainment of a peaceful settlement of the question of Palestine and the promotion of peace in the region and to submit a report on these efforts and on developments on this matter.
>
> "In order to fulfil my reporting responsibilities under this resolution, I should be grateful if you would kindly convey to me the views of the Security Council by 31 May 2004."

3. On 19 May 2004 a reply was received from the Security Council reading as follows:

> "The situation in the Middle East including the Palestinian question remains one of the most important items on the Security Council agenda. The Security Council continues to discuss and receive monthly briefings under this item from the Secretary-General, the Special Coordinator for the Middle East Peace Process, Terje-Roed Larsen, or senior Secretariat staff.
>
> "In June 2003, the Council reacted positively to the issuance of the performance-based road map to a permanent two-State solution to the Israeli-Palestinian conflict. In November 2003, the Council strengthened its support for the road map by unanimously adopting resolution 1515 (2003). The resolution, inter alia, endorsed the road map and called on the parties to fulfil their obligations under the road map in cooperation with the Quartet and to achieve the vision of two States living side by side in peace and security. The Council continues to follow the status of the implementation of the road map with a view to promoting a comprehensive, just and lasting peace in the Middle East.
>
> "During the reporting period, the Security Council held five open meetings in response to various security challenges that surfaced, from time to time, in the region. Following the open meeting held on 12 September 2003, at the request of the Non-Aligned Movement Caucus and the Arab Group, the Council presidency, in a press statement, expressed the view that the removal of Chairman Arafat should not be implemented. The presidency also condemned all violence and urged both sides to act with maximum restraint.
>
> "The Council could not agree on three draft resolutions submitted for action on 16 September 2003, 14 October 2003 and 24 March 2004. The subjects of the draft resolutions were the safety of the President of the Palestinian Authority, continued construction of a barrier in the Palestinian

territories and the extrajudicial killing of Hamas leader Shaikh Yassin in Gaza, respectively.

"The Council continues to keep the evolving situation in the Middle East under active review through monthly briefings, open meetings and informal consultations. During these meetings, the Council members reiterate their support for a just and comprehensive settlement in the Middle East based on Security Council resolutions 242 (1967), 338 (1973), 1397 (2002) and 1515 (2003), the foundations of the Madrid Conference, the principle of land for peace, agreements previously reached by the parties and the initiative of Saudi Crown Prince Abdullah endorsed in Beirut at the Summit-level Council of the League of Arab States."

4. In notes verbales dated 12 April 2004 to the parties concerned, I sought the positions of the Governments of Egypt, Israel, Jordan, Lebanon and the Syrian Arab Republic, as well as the Palestine Liberation Organization, regarding any steps taken by them to implement the relevant provisions of the resolution. As at 17 September 2004, the following replies had been received:

Note verbale dated 2 July 2004 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General

"As the Secretary-General is aware, Israel voted against this resolution, as well as against similar resolutions adopted by the General Assembly at previous sessions. In the light of the urgent need to bring an end to all acts of violence and terrorism in the region and to further the agreed negotiating process, Israel wishes to put on record, once again, its position on this matter.

"Israel views the aforementioned General Assembly resolution not only as unbalanced, but also as an undue interference in matters which the parties have agreed to resolve within the context of direct bilateral negotiations.

"The violence in the region has been a result of a Palestinian decision to abandon peace negotiations and pursue their goals through violence and terrorism. The one-sided approach reflected in the resolution, which seeks to dictate the outcome of the negotiating process, effectively rewards violence at a time when the Palestinian side should discontinue all acts of violence and terrorism and boldly pursue the path of peaceful dialogue, as called for in the road map peace process, which compels the Palestinian Authority to prevent 'all acts of violence against Israelis anywhere'.

"The time to put an end to such biased United Nations resolutions is long overdue, requiring immediate and serious consideration by the Secretary-General. These one-sided resolutions are not only out of touch with reality and anachronistic, they are counterproductive to the very spirit of peace. Rather than promoting a vision which recognizes the rights and obligations of both sides, as articulated in the road map, these resolutions obscure the efforts of the parties to achieve a negotiated outcome, at a moment when Prime Minister Sharon's courageous disengagement plan has opened a critical window of opportunity in the peace process."

Note verbale dated 16 August 2004 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General

"The General Assembly's resolution on the peaceful settlement of the question of Palestine has traditionally reaffirmed rules and principles of international law that are central, and in fact deemed to be essential, to the peaceful and just resolution of the long-standing question of Palestine. The overwhelming support received by this resolution is reflective of the near consensus of the international community with regard to this issue, a consensus rooted in positions and convictions that are based on the primacy of international law in international relations and on the universal ideals of justice and peace. During the fifty-eighth session of the General Assembly, Member States once again adopted this resolution by a huge majority of 160 votes in favour, with only 6 votes against and 5 abstentions.

"Among the rules and principles of international law the Assembly reaffirms in resolution 58/21 are two fundamental ones, namely the principle of equal rights and self-determination of peoples and the principle of the inadmissibility of the acquisition of territory by war, as enshrined in the Charter of the United Nations. Other rules recalled in the resolution are embodied in relevant General Assembly resolutions, including those adopted by its tenth emergency special session, and Security Council resolutions, including resolutions 242 (1967), 338 (1973), 1397 (2002) and 1515 (2003). Accordingly, as it reaffirms the necessity of achieving a peaceful settlement of the question of Palestine, the core of the Arab-Israeli conflict, in all its aspects and of intensifying efforts towards that end, the Assembly, inter alia, stresses the need for the withdrawal of Israel from the Palestinian territory occupied since 1967 and the need for the realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State. The resolution also stresses the need for resolving the problem of the Palestine refugees in conformity with the Assembly's resolution 194 (III) of 11 December 1948.

"As regards the efforts for achieving a peaceful settlement of the question of Palestine, the Assembly significantly reaffirms the permanent responsibility of the United Nations with regard to the question of Palestine until it is resolved in all its aspects, reaffirms also its full support for the Middle East peace process and the existing agreements between the Israeli and Palestinian sides, welcomes the efforts of the Quartet aimed at the establishment of a comprehensive, just and lasting peace in the Middle East, welcomes the Arab Peace Initiative adopted by the League of Arab States at Beirut in March 2002 and calls upon both parties to fulfil their obligations in implementation of the road map, stressing in this regard the importance and urgency of establishing a credible and effective third-party monitoring mechanism including all members of the Quartet. Further, towards the aim of achieving a peaceful settlement, the Assembly, in resolution 58/21, rightly stresses the necessity of a commitment to the two-State solution and the principle of land for peace, as well as the implementation of the relevant Security Council resolutions, and also stresses the need for a speedy end to the reoccupation of Palestinian population centres and for the complete cessation

of all acts of violence, including military attacks, destruction and acts of terror, which in recent years have caused the grave deterioration of the situation on the ground and have severely debilitated the search for a peaceful resolution of the question of Palestine.

"The resolution also addresses another aspect of the question of Palestine that constitutes an extremely relevant consideration for any efforts aimed at resolving this tragic and protracted conflict, namely the humanitarian aspect. The Assembly expresses its grave concern over the tragic events in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000, including the rising number of deaths and injuries, mostly among Palestinian civilians, the deepening humanitarian crisis facing the Palestinian people and the widespread destruction of Palestinian property and infrastructure, both private and public, including many institutions of the Palestinian Authority. In this regard, the Assembly emphasizes the importance of the safety and well-being of all civilians in the whole Middle East region and condemns all acts of violence and terror against civilians on both sides, including the suicide bombings and extrajudicial executions. Further, with regard to the dire humanitarian crisis being inflicted on the Palestinian people, the Assembly urges Member States to expedite the provision of economic, humanitarian and technical assistance to the Palestinian people and Palestinian Authority during this critical period to help alleviate their suffering, rebuild the Palestinian economy and infrastructure and support the restructuring and reform of Palestinian institutions.

"In calling for efforts to be exerted for the peaceful settlement of the question of Palestine, the Assembly is fully aware of the urgent need for revitalized and active international involvement to support both parties in overcoming the current dangerous impasse in the peace process. The Assembly affirms the urgent need for the parties to cooperate with all international efforts and accordingly calls upon the parties concerned, the Quartet and other interested parties to exert all efforts and initiatives necessary to halt the deterioration of the situation and to reverse all measures taken on the ground since 28 September 2000 and to ensure a successful and speedy resumption of the peace process and the conclusion of a final peace settlement. The role of the United Nations is further spelled out in resolution 58/21, with the Assembly's request for the Secretary-General to continue his efforts with the parties concerned, and in consultation with the Security Council, towards the attainment of a peaceful settlement of the question of Palestine and the promotion of peace in the region, and its call upon the Secretary-General to submit a report on the efforts and developments on this matter, the purpose to which the present note is addressed.

"Regrettably, resolution 58/21 of 3 December 2003, like countless other United Nations resolutions relevant to the question of Palestine, has not been implemented. This has been mainly due to the intransigence of Israel, the occupying Power, and its refusal to adhere to international law and to fulfil its obligations in accordance with the Charter of the United Nations and relevant General Assembly and Security Council resolutions. Instead, Israel, the occupying Power, has continued to blatantly and flagrantly violate and even commit grave breaches of international law as it has persisted with its now 37-year occupation of the Palestinian people and the Palestinian land, refusing

to withdraw its occupying forces, in compliance with Security Council resolutions 242 (1967) and 338 (1973), and relentlessly carrying out its illegal and oppressive policies and practices in the Occupied Palestinian Territory, including East Jerusalem. Indeed, not a single day has passed during which the occupying Power has not deliberately engaged in the violation of international law, including international humanitarian law and human rights law, in its practices and measures against the Palestinian people, both individually and collectively, and there is no doubt that systematic human rights violations and war crimes continue to be committed by Israel against the Palestinian people.

"Since the Assembly's adoption of resolution 58/21, Israel, the occupying Power, has continued carrying out its military campaign against the Palestinian people and has continued to use excessive, indiscriminate and disproportionate force against Palestinian civilians, wilfully killing civilians, including by extrajudicial execution, and causing thousands of injuries. To date, more than 3,160 Palestinian civilians have been directly killed by the Israeli occupying forces since September 2000 and more than 40,000 Palestinians have been injured, many critically and permanently disabled. At the same time, the occupying Power has continued to wantonly destroy Palestinian homes, properties, infrastructure and agricultural lands and orchards, to detain and imprison thousands of Palestinian civilians, including women and children, and to impose harsh measures of collective punishment on the entire Palestinian population, including severe restrictions on the movement of persons and goods throughout the Occupied Palestinian Territory, causing the further socio-economic debilitation of the Palestinian society and exacerbating the already dire humanitarian crisis.

"Throughout the recent period, Israel, the occupying Power, has also continued to intensively carry out its campaign of settler colonialism in the Occupied Palestinian Territory, including East Jerusalem, in direct contravention of international law, particularly the Fourth Geneva Convention and Protocol I Additional to the Geneva Conventions. The occupying Power has continued to confiscate more and more Palestinian land, to construct and expand illegal settlements, to build bypass roads for the armed illegal Israeli settlers and to allow the establishment of dozens of settler outposts on Palestinian land. Directly linked to Israel's campaign of settler colonialism is its ongoing construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, in contravention of international law.

"In utter contempt of and disrespect for resolutions ES-10/13 of 21 October 2003 and ES-10/14 of 8 December 2003, and in violation of numerous relevant provisions of international law, Israel has continued to construct the wall and for this unlawful purpose has continued to confiscate land, to destroy property and to impose a series of illegal restrictions, including by means of a 'permit system', constituting an entire associated regime of measures intended to facilitate its construction of the wall. The wall and its associated regime have resulted in the complete caging-in of thousands of Palestinian civilians in walled enclaves or ghettos and the separation and isolation of cities, towns and villages from each other and in some cases from within; have caused the displacement of thousands of Palestinian civilians; have severely impaired the access of the hundreds of thousands of Palestinian civilians in affected areas to their jobs, schools, medical facilities, farmlands

and each other; and have led to extensive loss of livelihood and the impoverishment of thousands of families, compounding their suffering and hardships under Israel's occupation.

"In the months since the adoption of resolution 58/21, the critical issue of the wall has been the predominant concern of the international community vis-à-vis the situation in the Occupied Palestinian Territory, including East Jerusalem. In the most significant development in the United Nations system with regard to the question of Palestine since the adoption of the partition plan in resolution 181 (II) of 29 November 1947, the International Court of Justice rendered, on 9 July 2004, an Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. The Advisory Opinion, rendered pursuant to the request made by the Assembly at its tenth emergency special session in resolution ES-10/14 of 8 December 2003, is strong and comprehensive and represents a historic opportunity for a return to the rule of international law in the efforts to resolve the Israeli-Palestinian conflict. Indeed, the Advisory Opinion underscores the applicability of, and the need for respect for, the rules and principles of international law for resolving the issue of the wall and for the ultimate peaceful resolution of the question of Palestine. The legal rules and principles emphasized by the Court correspond to the very same rules and principles repeatedly affirmed by the General Assembly in its resolutions relevant to the question of Palestine, which for decades have been disregarded and violated by Israel, the occupying Power.

"The International Court of Justice, in its Advisory Opinion, concluded, inter alia, that 'the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law'. In arriving at this determination, the Court undertook a historical analysis of the status of the Occupied Palestinian Territory, followed by an analysis to establish whether the law had been breached and then a determination of the legal consequences in this regard. The Court found that the area east of the 1949 Armistice Line (the 'Green Line') and the former eastern boundary of Palestine under the Mandate, including East Jerusalem, was occupied by Israel in 1967 and, under international law, considered to be occupied territory. Here it is necessary to also recall the important adoption by the General Assembly, on 6 May 2004, of resolution 58/292 on the status of the Occupied Palestinian Territory, including East Jerusalem.

"In brief, with regard to the specific violations of international law, including international humanitarian law and human rights law, the Court concluded, inter alia, that Israel's construction of the wall and its associated regime create a fait accompli on the ground which would be tantamount to de facto annexation, severely impede the exercise by the Palestinian people of its right to self-determination and therefore violate that right; have led to the destruction or requisition of properties in contravention of relevant provisions of the Hague Regulations and the Fourth Geneva Convention; and violate the Palestinian people's freedom of movement and the right to work, to health, to education and to an adequate standard of living. In examining the route of the wall, the Court found that not only did it depart from the Green Line, but that the 'wall's sinuous route has been traced in such a way as to include within

that area the great majority of Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem)'. In this regard, it is significant that the Court also explicitly concluded that 'the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law'.

"It is equally imperative to refer in this context to the importance of the conclusions set forth by the Court in the Advisory Opinion. Following its determination that the construction of the wall and its associated regime are contrary to international law, the Court determined the following: that Israel is under an obligation to terminate its breaches of international law, to cease the construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle the structure therein situated, and to repeal or render ineffective all legislative and regulatory acts relating thereto; that Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem; that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; that all States parties to the Fourth Geneva Convention have an additional obligation of ensuring compliance by Israel with the Convention; and that the United Nations, especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the Advisory Opinion.

"With regard to the United Nations, the General Assembly, at its tenth emergency special session, has already taken the first step in this respect. The Assembly received and acknowledged the Advisory Opinion and adopted resolution ES-10/15 of 20 July 2004, in which it, inter alia, demanded that Israel, the occupying Power, comply with its legal obligations as mentioned in the Advisory Opinion and also called upon all States Members of the United Nations to comply with their legal obligations as mentioned in the Advisory Opinion. Indeed, respect for and compliance with the rules and principles of international law, as determined in the Advisory Opinion, by Israel, the occupying Power, and by Member States, can only positively influence the current situation on the ground in the Occupied Palestinian Territory and the efforts for achieving a peaceful, political settlement of the conflict based on international law.

"It is highly regrettable that the immediate reaction by Israel, the occupying Power, to both the Advisory Opinion and resolution ES-10/15, has been negative and defiant, with Israeli officials declaring Israel's intention to continue its construction of the wall and with the occupying forces in fact carrying out that construction as well as the associated illegal measures. Clearly, the continuing violation of international law and total disrespect for the Advisory Opinion and the Assembly's resolutions must continue to be a matter of serious concern for the United Nations. The direct and grave impact of this ongoing illegal situation on the efforts to achieve a peaceful settlement of the Israeli-Palestinian conflict is unquestionable and must be urgently addressed by both the General Assembly and the Security Council. Israel, the

occupying Power, has a choice: it can choose either to comply with the Advisory Opinion or to formally become an outlaw State.

"Israel's withdrawal from the Palestinian territory occupied since 1967, as called for by resolution 58/21 as well as by Security Council resolutions 242 (1967) and 338 (1973) and numerous other resolutions, is a fundamental requisite for solving the question of Palestine and achieving a peaceful settlement of the Israeli-Palestinian conflict, based on the two-State solution. The occupying Power's settler colonialism and its construction of the wall in the Occupied Palestinian Territory, including East Jerusalem, are the antithesis of withdrawal and actually constitute the main obstacle, and indeed danger, to the realization of the national rights of the Palestinian people and the achievement of the two-State solution. Without the complete cessation and reversal of all settlement activities and of the construction of the wall, there can be no hope for the road map and there can be no hope for a peaceful settlement. The international community must face this reality and take necessary, serious measures in this regard, including the exertion of all efforts for the full implementation of those resolution as well as full compliance with the Advisory Opinion of the International Court of Justice. Only by upholding international law and the purposes and principles of the Charter can efforts aimed at the achievement of a just, comprehensive and lasting peace succeed. All concerned parties should intensify their efforts towards this end.

"In this regard, it is hoped that the international community and the Quartet will exert the necessary efforts as well to salvage the road map and to implement its provisions towards its stated aims and goals. Accordingly, repeated Israeli attempts to evade the road map and replace it with different steps should be rejected. The Israeli Prime Minister's 'unilateral disengagement plan' and the Israeli-American exchange of letters of 14 April 2004 are inconsistent with the road map and, moreover, the plan, and several passages within the letters violate international law, relevant Security Council resolutions and the inalienable rights of the Palestinian people, including the Palestine refugees. In this regard, it must be firmly stated that the letters are unacceptable and cannot alter the terms of reference of the peace process or alter the inalienable rights of the Palestinian people. Further, any Israeli withdrawal from the Gaza Strip should be a full and complete withdrawal and should be accompanied by similar steps in the West Bank — that is, to genuinely be a part of the road map. Any such withdrawal should also be carried out in full cooperation with the Palestinian Authority.

"Palestine looks forward to the resumption of meaningful negotiations for a final peaceful settlement and the establishment of a just, comprehensive and lasting peace in the Middle East, including full peaceful relations between Israel and Palestine. Until the achievement of such a peaceful settlement, Palestine hopes for and indeed expects the continued support of the international community and the continued exertion of genuine efforts towards this end, including in particular by the United Nations."

Note verbale dated 10 May 2004 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

[Original: Arabic]

"The Syrian Arab Republic supported General Assembly resolution 58/21 of 3 December 2003, entitled 'Peaceful settlement of the question of Palestine'. This position was based on its belief that the attainment of a comprehensive and lasting peace in the Middle East based on decisions of international legitimacy, especially Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, will not be feasible until a peaceful, comprehensive and just settlement of the question of Palestine, the core of the Arab-Israeli conflict, has been achieved. On this basis, the Arab countries unanimously agreed the Arab Peace Initiative adopted by the Summit-level Council of the League of Arab States at its fourteenth session, held in Beirut on 27 and 28 March 2002. In the meantime, the Syrian Arab Republic reiterated its strategic position, based on achieving a comprehensive and just peace, through the call by the President of the Syrian Arab Republic for the resumption of peace talks in order to continue what was achieved during the peace negotiations that followed the Madrid Conference in 1991.

"The Syrian Arab Republic wishes to affirm anew the contents of General Assembly resolution 58/21 (2003) of 3 December 2003 concerning the illegality of the Israeli settlements in the territory occupied since 1967. The Syrian Arab Republic also wishes to stress that the ongoing presence of these settlements constitutes a fundamental obstacle to the reaching of a peaceful settlement of the question of Palestine and indicates that the successive Israeli Administrations have lacked the necessary political will to reach a just and comprehensive peace in the region based on decisions of international legitimacy. It has become apparent to all that Sharon's proposed plans are designed to revoke the right of refugees to return to their homes on the basis of General Assembly resolution 194 (III) of 11 December 1948.

"The Syrian Arab Republic unequivocally supports the affirmation contained in this resolution concerning the principle of the inadmissibility of the acquisition of territory by war, which is based on Security Council resolution 242 (1967) of 22 November 1967. It also reaffirms the illegality of Israeli actions aimed at changing the status of Jerusalem.

"Israel's determination to continue its expansionist project inside Palestinian territory, especially as it continues to construct the separation wall in implementation of its policy of fait accompli, and its non-compliance with General Assembly resolution ES-10/13 of 21 October 2003, which demanded that Israel stop the construction of this wall, are blatant examples of Israel's illegitimate actions in violation of the Armistice Line of 1949 and its denial of the principle of equal and inalienable rights and self-determination of peoples, all of which constitutes a further obstacle to achieving the desired peace.

"The Syrian Arab Republic condemns Israel's continued illegal occupation of Arab territories, acts of aggression, incursions into Palestinian areas, house demolition, confiscation of land, detentions, policy of

assassination of Palestinian leaders, all of which has escalated recently, and the expulsion of Palestinians from their houses, cities and villages. These Israeli policies reflect the State terrorism that Israel practises, its real intention of continuing the occupation and its disregard for decisions of international legitimacy. These Israeli policies are incompatible with the desire of the international community to reach a settlement of the Palestine question in accordance with the relevant Security Council resolutions, in particular Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, which affirmed the necessity of Israel's withdrawal from all occupied Arab territories and of enabling the Palestinian people to exercise its right to self-determination and to establish its own independent State on its national soil."

II. Observations

5. I regret to report that despite the efforts of the international community through the Quartet (the United Nations, the European Union, the Russian Federation and the United States of America), and the stated commitment of the parties to the road map initiative expressed at the summit meeting at Aqaba, Jordan, on 4 June 2003, the situation in the Middle East is characterized by a stalled peace process and continuing high levels of violence. Throughout the past year, both Palestinians and Israelis have suffered from violence and ever-mounting death tolls. The humanitarian situation in the occupied Palestinian territory continued to deteriorate sharply, with even a minimum standard of living for many Palestinians being sustained only by assistance from the donor community, particularly by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and other United Nations agencies and programmes.

6. The rising number of deaths and injuries is evidence of the lack of progress in advancing the peace process over the last year. As at 16 September 2004, 825 Palestinians and 136 Israelis had lost their lives in the conflict in the preceding year. In the four years that have passed since the eruption of the violence in September 2000, no fewer than 3,633 Palestinians and 966 Israelis have been killed. This ever-mounting human tragedy reiterates the urgent need for the parties to implement their road map obligations and for getting the peace process back on track.

7. Neither side has taken adequate steps to protect civilians, and both are in breach of their international legal obligations. Israel, as the occupying Power, has clear obligations to protect Palestinian civilians and their property. Nevertheless, Palestinian civilians continue to be killed and injured in Israeli military operations, including incursions and pre-emptive strikes. In addition, Israel has continued the illegal practice of extrajudicial killings. The scale of destruction of Palestinian property by the Israeli military raises serious concerns about collective punishment. For its part, the Palestinian Authority has obligations under agreements reached with Israel, international humanitarian law and its commitments to the road map to protect Israeli civilians from attacks emanating from territories in its control. It has failed to live up to those obligations, and Israeli civilians continue to suffer terrorist attacks from Palestinian militant groups, including suicide bombings and Qassam rocket strikes. For each side to cite the actions of the other excuses neither from fulfilling its own obligations. There can be no preconditions for the observance of humanitarian law and international agreements.

8. More broadly, the parties have not lived up to their road map obligation. The Israeli Government has made no progress on its core obligation immediately to dismantle settlement outposts erected since March 2001 and to freeze settlement activities, including natural growth. The Palestinian Authority has made no progress on its core obligations to take immediate action on the ground to end violence and combat terror. Until and unless both the Palestinian Authority and the Government of Israel take the necessary first steps to restore momentum towards peace, the stalemate will continue and there will be no lasting ceasefire. Those first steps are clear: on the Israeli side, the dismantling of settlement outposts and the implementation of a full freeze of all settlement activities, and on the Palestinian side, the implementation of meaningful security reforms and bringing to an end the use of violence in all its forms.

9. Israel has failed to implement its core commitments under the road map. Settlement expansion and lack of action on removing the outposts erected since 2001 severely undermine Palestinian trust in Israel's intentions and contribute to strengthening extremist opinion among Palestinians. Despite repeated promises by the Israeli Government, settlement activities continue. According to figures of the Israeli Ministry of the Interior, the settler population continues to increase. Settlement construction is reported to have continued at a considerable pace, in particular in large settlement blocs. In and around East Jerusalem, recent settlement activity, both governmental and privately sponsored, has proceeded at a rate that observers describe as unmatched since 1992. Government-sponsored settlement activity has serious effects on the territorial contiguity of the Palestinian territory. Thus, reports that the Israeli Government had approved plans for the construction of 600 new accommodation units in Maale Adumim, already the largest Israeli settlement, and the release of tenders for the construction of more than 1,000 new housing units in West Bank settlements were of special concern.

10. Throughout the reporting period, Israel persisted in its efforts to confine the elected President of the Palestinian Authority, Mr. Arafat, to his headquarters in the West Bank.

11. The security measures taken by the Palestinian Authority are still limited and unclear. Over the last 12 months, we have been consistently calling on the Palestinian Authority to take decisive action to reform, refocus and rehabilitate the Palestinian security services. Decisive action in this regard would help to restore law and order as well as the Palestinian Authority's diminished credibility. The required elements of reform are clear to all: the consolidation of all security services into three main bodies, with a professional leadership, and putting them under the authority of an effective Interior Minister who reports to an empowered Prime Minister.

12. Another crucial area is elections. On 4 September 2004, voter registration began under the auspices of the Central Elections Commission, as the international community had persistently demanded over the past year. At the same time, it is most regrettable that the Israeli authorities closed three registration centres and detained five Palestinian staff of the Commission on 13 September 2004. Such action represents an unacceptable interference with the registration process in East Jerusalem, and we call on Israel to facilitate, rather than hinder, this important process. In addition, much work remains to be done by the Palestinian Authority to ensure that the local elections, scheduled to begin on 9 December 2004 and last for

one year, meet minimum international standards. Even more important, national elections have to follow soon.

13. Over the past year, the situation in the Middle East, including the Palestinian question, remained the subject of extensive consultations and debates in the Security Council. The Secretariat continued to provide regular informal briefings to the Council on the latest developments in the Middle East. Over the course of this year, the Security Council adopted two resolutions regarding the Middle East. On 19 November 2003, the Council adopted resolution 1515 (2003), endorsing the road map and calling on the parties to fulfil their road map obligations. On 19 May 2004, the Security Council adopted resolution 1544 (2004), calling on Israel to respect its obligations under international humanitarian law, including its obligation not to destroy Palestinian homes in a manner contrary to the law.

14. Israel continued construction of the barrier in parts of the West Bank during the year. The General Assembly adopted resolution ES-10/13 on 21 October 2003, demanding that Israel immediately stop and reverse construction of the wall being built in parts of the West Bank. The resolution requested that I submit reports periodically to the Assembly, with the first, on compliance with the resolution, due within a month. I submitted to the Assembly the report, ES-10/248, on 24 November 2003. On 8 December 2003, the General Assembly adopted resolution ES-10/14, requesting the International Court of Justice to urgently render an advisory opinion on the legal consequences of the wall. The Court heard arguments in public hearings in February 2004 and on 9 July rendered an advisory opinion declaring that the construction of the wall in the occupied Palestinian territory, including in and around East Jerusalem, is contrary to international law; that Israel is obligated to terminate such breaches and make reparation for all damage caused by the construction of the wall; and that the Assembly and Security Council might wish to consider further action to bring an end to the illegal situation. The Assembly, on 20 July 2004, adopted resolution ES-10/15, demanding that Israel comply with its legal obligations and requesting me to establish a register of damage caused by the construction of the wall.

15. During the reporting period, there has been a disturbing increase in acts of violence against and harassment of United Nations staff and property. United Nations staff are frequently hindered in carrying out their duties. Israel has a clear obligation to ensure the safety and security of United Nations staff and property. In addition, Israel should work to ensure that the movement of humanitarian goods is not unduly impeded by security concerns. Israel should also undertake efforts to facilitate the movement of United Nations staff through the Erez crossing, in accordance with the privileges and immunities accorded to all United Nations staff members.

16. In February 2004, Prime Minister Sharon announced an initiative to withdraw Israeli armed forces from Gaza and parts of the West Bank and to evacuate all settlements in the Gaza Strip, as well as four settlements in the northern West Bank. At its meeting on 4 May 2004, the Quartet welcomed this step and stated that for it to be effective and a real contribution to the peace process, the following requirements needed to be met: that the withdrawal be full and complete; that it lead to an end of the occupation of Gaza and be accompanied by similar steps in the West Bank; that it take place within the framework of the road map and the vision of two States; and that it be fully coordinated with the Palestinian Authority and the

Quartet. It is my hope that both the Israeli and the Palestinian sides will focus on the tasks at hand in order to make withdrawal and its aftermath a new beginning of the peace process. Egypt and Jordan can assist this process. Both countries have so far displayed welcome and commendable leadership.

17. The United Nations, and the international community at large, is ready to assist the parties in this endeavour, if they make the right choices. The Quartet remains in close consultations and meets regularly to assess the situation on the ground and examine appropriate courses of action. The main donor coordination body, known as the Ad Hoc Liaison Committee, is planning to meet later in the year to examine ways in which the donor community could assist the parties to turn this withdrawal into the beginning of a genuine peace process. But, yet again, this depends on the parties themselves, the Government of Israel and the Palestinian Authority, and the choices they make in this regard.

18. On the economic front, the picture remains grim. The Palestinian economy is in tatters and stands little chance of recovery unless immediate action is taken. Forty-seven percent of the Palestinian population currently lives in poverty. Unemployment among Palestinians stands at 34.3 per cent, or 28.6 per cent at the International Labour Organization-adjusted rate, which excludes discouraged workers. At present, UNRWA and the World Food Programme are providing regular food aid to as many as 1,480,000 beneficiaries — 39 per cent of the total Palestinian population in the occupied territory — and UNRWA is now supplying 10 times as much food as it was before September 2000.

19. A recent World Bank study found that the deep economic crisis in the West Bank and Gaza is one of the worst recessions in modern history. It is contributing to the impoverishment of an entire generation of young Palestinians, as well as to the undermining of the credibility of the Palestinian Authority, and, inevitably, it is increasing the popular appeal of militant factions. The primary cause of this crisis is the closure regime imposed by the Government of Israel. Without a significant change in the closure regime, the Palestinian economy will not be revived. Indeed, the World Bank has emphasized that Israel's disengagement plan will have limited impact on the Palestinian economy and Palestinian livelihoods if it is not accompanied by a radical easing of closure that encompasses three elements: the removal of internal obstacles to movement in the West Bank, the opening of Palestinian external borders to commodity trade and a return to a reasonable flow of Palestinian labour into Israel.

20. If these conditions are met, additional donor money can be raised. But donors need some assurance that their contributions will have a productive impact. Aid will be provided in the context of a successful comprehensive Israeli withdrawal from the Gaza Strip and the northern West Bank, as a first step in the implementation of the road map.

21. It is particularly disquieting that Israel has announced its intention to phase out completely Palestinian employment inside Israel by 2008. The number of Palestinians employed in Israel has decreased significantly since September 2000. The Palestinian economy is dependent on the Israeli economy, not only for employment but also for raw materials and trade. Although the parties may choose to change this relationship in the long term, a revival of the Palestinian economy in the short term depends on a return to reasonable levels of Palestinian employment in Israel. Should Israel insist on ending Palestinian employment and implement the

disengagement plan without accompanying measures to ease internal and external closure, unemployment and poverty will continue to soar among Palestinians.

22. I call upon the international community to provide the resources necessary to support United Nations programmes in addressing the deteriorating economic and humanitarian situation of the Palestinian people, and especially to provide adequate funding to UNRWA so that it can continue to deliver the necessary services to the Palestinian refugees. Donor assistance is especially vital at a time when the humanitarian situation is so critical.

23. So far this year UNRWA has received pledges covering less than one half of its financial requirements for its emergency appeal for refugees in the West Bank and Gaza Strip. Only $89 million of the almost $210 million needed has been pledged. With insufficient financial resources, the quality and level of the Agency's emergency humanitarian assistance will suffer, making the already miserable life of the Palestinian people even more difficult, with wider consequences.

24. Later this year, the Agency will be launching a five-year medium-term plan covering the approximately 2 million registered refugees throughout its area of operation. The additional funding needed for the plan will help create equity between refugees and non-refugees living side by side and enable the Agency to make up for years of under-funding.

25. I should like to pay special tribute to Terje Roed-Larsen, United Nations Special Coordinator for the Middle East Peace Process and my Personal Representative to the Palestine Liberation Organization and the Palestinian Authority, to the staff of the Office of the United Nations Special Coordinator and to Commissioner-General Peter Hansen of UNRWA, the staff of the Agency and all other United Nations agencies, who continue to provide sterling services while working under most demanding and difficult circumstances.